

AMENDED IN ASSEMBLY JULY 8, 1999

SENATE BILL

No. 1279

Introduced by Senator Polanco
(Coauthor: Assembly Member Ducheny)

February 26, 1999

An act to amend Sections 1156, 3562, 3566, 20394, 20636, and 22810.5 of the Government Code, relating to higher education labor relations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1279, as amended, Polanco. Higher education labor relations: definition of "employee."

Existing law contains provisions relating to employer-employee relations between the State of California and the employees of state institutions of higher education. For the purposes of these employer-employee relations, "employee" or "higher education employee" is defined as any employee of the Regents of the University of California, the Directors of the Hastings College of the Law, or the Trustees of the California State University whose employment is principally within the State of California.

This bill would delete the requirement that the employment of an "employee" or "higher education employee" be principally within the State of California, *but would exclude employees whose principal place of employment is outside the State of California at a worksite with 100 or fewer employees*. The bill would also make several technical, nonsubstantive, and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1156 of the Government Code is
2 amended to read:
3 1156. (a) Any eligible employee who is participating
4 in a flexible benefits program may elect to receive one or
5 more benefits that qualify to be excluded from gross
6 income in lieu of a portion of his or her salary.
7 (b) For purposes of this section, an “eligible
8 employee” means any of the following:
9 (1) An employee excluded from the definition of
10 “state employee” in Section 3513.
11 (2) A “managerial employee” as defined in Section
12 3513.
13 (3) A “confidential employee” as defined in Section
14 3513 and Section 3562.
15 (4) A “supervisory employee” as defined in Section
16 3580.3.
17 (5) An officer or employee of the State of California in
18 the executive or judicial branch of government who is not
19 a state civil service employee pursuant to Part 2
20 (commencing with Section 18500) of Division 5 of Title
21 2.
22 (6) A “state employee,” as defined by Section 3513 or
23 employed by the state as provided for in Article VI of the
24 Constitution.
25 (c) Any eligible employee participating in the flexible
26 benefits program shall be subject to federal laws and
27 implementing regulations of the Department of
28 Personnel Administration which affects the flexible
29 benefit program throughout the period of the employee’s
30 enrollment.
31 (d) Unless the trustee or the administrator of the
32 state’s flexible benefit program is the Controller or
33 another state officer, that program shall be administered
34 in compliance with the federal Employee Retirement



1 Income Security Act of 1974 (ERISA: 29 U.S.C. Sec. 1001
2 et seq.).

3 (e) As a condition of participating in a flexible benefits
4 program, each eligible employee shall provide evidence
5 in a manner satisfactory to the Department of Personnel
6 Administration that the employee is covered by a basic
7 health benefits plan, and his or her agreement to remain
8 covered for the period of participation in the flexible
9 benefits plan.

10 (f) There is in the State Treasury the Flexelect Benefit
11 Fund which, notwithstanding Section 13340, is
12 continuously appropriated without regard to fiscal years
13 to the Department of Personnel Administration for
14 expenditure to implement the flexible benefits program
15 and to pay the related administrative costs. The fund shall
16 consist of the amounts received from state employee
17 compensation excluded from gross income and
18 transmitted to the Flexelect Benefit Fund, income of
19 whatever nature earned on the money in the Flexelect
20 Benefit Fund during any fiscal year and credited to the
21 fund, and amounts appropriated therefor in the annual
22 Budget Act and other statutes.

23 (g) On or after July 1, 1990, any funds remaining in the
24 State Employees' Dependent Care Assistance and Health
25 Care Assistance Fund shall be transmitted into the
26 account in the Flexelect Benefit Fund for the
27 administrative expenses of the Controller's office to pay
28 the related administrative costs.

29 SEC. 2. Section 3562 of the Government Code is
30 amended to read:

31 3562. As used in this chapter:

32 (a) "Arbitration" means a method of resolving a rights
33 dispute under which the parties to a controversy must
34 accept the award of a third party.

35 (b) "Board" means the Public Employment Relations
36 Board established pursuant to Section 3513.

37 (c) "Certified organization" means an employee
38 organization which has been certified by the board as the
39 exclusive representative of the employees in an

1 appropriate unit after a proceeding under Article 5
2 (commencing with Section 3573).

3 (d) “Confidential employee” means any employee
4 who is required to develop or present management
5 positions with respect to meeting and conferring or
6 whose duties normally require access to confidential
7 information which contributes significantly to the
8 development of such management positions.

9 (e) “Employee” or “higher education employee”
10 means any employee of the Regents of the University of
11 California, the Directors of Hastings College of the Law,
12 or the Trustees of the California State University.
13 However, managerial, and confidential employees *and*
14 *employees whose principal place of employment is*
15 *outside the State of California at a worksite with 100 or*
16 *fewer employees* shall be excluded from coverage under
17 this chapter. The board may find student employees
18 whose employment is contingent on their status as
19 students are employees only if the services they provide
20 are unrelated to their educational objectives, or, that
21 those educational objectives are subordinate to the
22 services they perform and that coverage under this
23 chapter would further the purposes of this chapter.

24 (f) “Employee organization” means any organization
25 of any kind in which higher education employees
26 participate and which exists for the purpose, in whole or
27 in part, of dealing with higher education employers
28 concerning grievances, labor disputes, wages, hours, and
29 other terms and conditions of employment of employees.
30 “Employee organization” shall also include any person
31 that an employee organization authorizes to act on its
32 behalf. An academic senate, or other similar academic
33 bodies, or divisions thereof, shall not be considered
34 employee organizations for the purposes of this chapter.

35 (g) “Employer” or “higher education employer”
36 means the regents in the case of the University of
37 California, the Directors in the case of Hastings College
38 of the Law, and the trustees in the case of the California
39 State University, including any person acting as an agent
40 of an employer.

1 (h) “Employer representative” means any person or
2 persons authorized to act in behalf of the employer.

3 (i) “Exclusive representative” means any recognized
4 or certified employee organization or person it authorizes
5 to act on its behalf.

6 (j) “Impasse” means that the parties have reached a
7 point in meeting and conferring at which their
8 differences in positions are such that further meetings
9 would be futile.

10 (k) “Managerial employee” means any employee
11 having significant responsibilities for formulating or
12 administering policies and programs. No employee or
13 group of employees shall be deemed to be managerial
14 employees solely because the employee or group of
15 employees participate in decisions with respect to
16 courses, curriculum, personnel and other matters of
17 educational policy. A department chair or head of a
18 similar academic unit or program who performs the
19 foregoing duties primarily on behalf of the members of
20 the academic unit or program shall not be deemed a
21 managerial employee solely because of those duties.

22 (l) “Mediation” means the efforts of a third person, or
23 persons, functioning as intermediaries, to assist the
24 parties in reaching a voluntary resolution to an impasse.

25 (m) “Meet and confer” means the performance of the
26 mutual obligation of the higher education employer and
27 the exclusive representative of its employees to meet at
28 reasonable times and to confer in good faith with respect
29 to matters within the scope of representation and to
30 endeavor to reach agreement on matters within the
31 scope of representation. The process shall include
32 adequate time for the resolution of impasses. If
33 agreement is reached between representatives of the
34 higher education employer and the exclusive
35 representative, they shall jointly prepare a written
36 memorandum of the understanding which shall be
37 presented to the higher education employer for
38 concurrence. However, these obligations shall not
39 compel either party to agree to any proposal or require
40 the making of a concession.

1 (n) “Person” means one or more individuals,
2 organizations, associations, corporations, boards,
3 committees, commissions, agencies, or their
4 representatives.

5 (o) “Professional employee” means:

6 (1) Any employee engaged in work: (A)
7 predominantly intellectual and varied in character as
8 opposed to routine mental, manual, mechanical, or
9 physical work; (B) involving the consistent exercise of
10 discretion and judgment in its performance; (C) of a
11 character so that the output produced or the result
12 accomplished cannot be standardized in relation to a
13 given period of time; and (D) requiring knowledge of an
14 advanced type in a field of science or learning customarily
15 acquired by a prolonged course of specialized intellectual
16 instruction and study in an institution of higher learning
17 or a hospital, as distinguished from a general academic
18 education or from an apprenticeship or from training in
19 the performance of routine mental, manual, or physical
20 processes.

21 (2) Any employee who: (A) has completed the courses
22 of specialized intellectual instruction and study described
23 in subparagraph (D) of paragraph (1), and (B) is
24 performing related work under the supervision of a
25 professional person to qualify himself to become a
26 professional employee as defined in paragraph (1).

27 (p) “Recognized organization” means an employee
28 organization which has been recognized by an employer
29 as the exclusive representative of the employees in an
30 appropriate unit pursuant to Article 5 (commencing with
31 Section 3573).

32 (q) (1) For purposes of the University of California
33 only, “scope of representation” means, and is limited to,
34 wages, hours of employment, and other terms and
35 conditions of employment. The scope of representation
36 shall not include any of the following:

37 (A) Consideration of the merits, necessity, or
38 organization of any service, activity, or program
39 established by law or resolution of the regents or the

1 directors, except for the terms and conditions of
2 employment of employees who may be affected thereby.

3 (B) The amount of any fees which are not a term or
4 condition of employment.

5 (C) Admission requirements for students, conditions
6 for the award of certificates and degrees to students, and
7 the content and supervision of courses, curricula, and
8 research programs, as those terms are intended by the
9 standing orders of the regents or the directors.

10 (D) Procedures and policies to be used for the
11 appointment, promotion, and tenure of members of the
12 academic senate, the procedures to be used for the
13 evaluation of the members of the academic senate, and
14 the procedures for processing grievances of members of
15 the academic senate. The exclusive representative of
16 members of the academic senate shall have the right to
17 consult and be consulted on matters excluded from the
18 scope of representation pursuant to this subparagraph. If
19 the academic senate determines that any matter in this
20 subparagraph should be within the scope of
21 representation, or if any matter in this subparagraph is
22 withdrawn from the responsibility of the academic
23 senate, the matter shall be within the scope of
24 representation.

25 (2) All matters not within the scope of representation
26 are reserved to the employer and may not be subject to
27 meeting and conferring, provided that nothing herein
28 may be construed to limit the right of the employer to
29 consult with any employees or employee organization on
30 any matter outside the scope of representation.

31 (r) (1) For purposes of the California State University
32 only, "scope of representation" means, and is limited to,
33 wages, hours of employment, and other terms and
34 conditions of employment. The scope of representation
35 shall not include:

36 (A) Consideration of the merits, necessity, or
37 organization of any service, activity, or program
38 established by statute or regulations adopted by the
39 trustees, except for the terms and conditions of
40 employment of employees who may be affected thereby.

1 (B) The amount of any student fees which are not a
2 term or condition of employment.

3 (C) Admission requirements for students, conditions
4 for the award of certificates and degrees to students, and
5 the content and conduct of courses, curricula, and
6 research programs.

7 (D) Criteria and standards to be used for the
8 appointment, promotion, evaluation, and tenure of
9 academic employees, which shall be the joint
10 responsibility of the academic senate and the trustees.
11 The exclusive representative shall have the right to
12 consult and be consulted on matters excluded from the
13 scope of representation pursuant to this subparagraph. If
14 the trustees withdraw any matter in this subparagraph
15 from the responsibility of the academic senate, the matter
16 shall be within the scope of representation.

17 (E) The amount of rental rates for housing charged to
18 California State University employees.

19 (2) All matters not within the scope of representation
20 are reserved to the employer and may not be subject to
21 meeting and conferring, provided that nothing herein
22 may be construed to limit the right of the employer to
23 consult with any employees or employee organization on
24 any matter outside the scope of representation.

25 SEC. 3. Section 3566 of the Government Code is
26 amended to read:

27 3566. The Trustees of the California State University
28 shall adopt reasonable rules and regulations for all of the
29 following:

30 (a) Registering employee organizations, as defined in
31 Section 3562, and bona fide associations, as defined in
32 Section 1150.

33 (2) Determining the status of organizations and
34 associations as employee organizations or bona fide
35 associations.

36 (3) Identifying the officers and representatives who
37 officially represent employee organizations and bona fide
38 associations.

39 SEC. 4. Section 20394 of the Government Code is
40 amended to read:

20394. “State peace officer/firefighter member” also includes the employees of a California State University police department, established pursuant to Section 89560 of the Education Code, who have been designated as peace officers as defined in Section 830.2 of the Penal Code, and who are (a) members represented by Public Safety Unit No. 8, or (b) members excluded from the definition of employee in Section 3562 or are supervisory employees as defined in Section 3580.3, provided that these employees have responsibility for the direct supervision of the state peace officer/firefighter members represented in Public Safety Unit No. 8. The Trustees of the California State University shall notify this system when employees meet these conditions and whenever a state peace officer/firefighter member ceases to meet the conditions.

SEC. 5. Section 20636 of the Government Code is amended to read:

20636. (a) “Compensation earnable” by a member means the payrate and special compensation of the member, as defined by subdivisions (b), (c), and (g), and as limited by Section 21752.5.

(b) (1) “Payrate” means the normal monthly rate of pay or base pay of the member paid in cash to similarly situated members of the same group or class of employment for services rendered on a full-time basis during normal working hours. “Payrate” for a member who is not in a group or class means the monthly rate of pay or base pay of the member, paid in cash and pursuant to publicly available pay schedules, for services rendered on a full-time basis during normal working hours, subject to the limitations of paragraph (2) of subdivision (e).

(2) The computation for any leave without pay of a member shall be based on the compensation earnable by him or her at the beginning of the absence.

(3) The computation for time prior to entering state service shall be based on the compensation earnable by him or her in the position first held by him or her in state service.

1 (c) (1) Special compensation of a member includes
2 any payment received for special skills, knowledge,
3 abilities, work assignment, workdays or hours, or other
4 work conditions.

5 (2) Special compensation shall be limited to that
6 which is received by a member pursuant to a labor policy
7 or agreement or as otherwise required by state or federal
8 law, to similarly situated members of a group or class of
9 employment that is in addition to payrate. If an individual
10 is not part of a group or class, special compensation shall
11 be limited to that which the board determines is received
12 by similarly situated members in the closest related group
13 or class that is in addition to payrate, subject to the
14 limitations of paragraph (2) of subdivision (e).

15 (3) Special compensation shall be for services
16 rendered during normal working hours and, when
17 reported to the board, the employer shall identify the pay
18 period in which the special compensation was earned.

19 (4) Special compensation may include the full
20 monetary value of normal contributions paid to the board
21 by the employer, on behalf of the member and pursuant
22 to Section 20691, provided that the employer's labor
23 policy or agreement specifically provides for the
24 inclusion of the normal contribution payment in
25 compensation earnable.

26 (5) The monetary value of any service or noncash
27 advantage furnished by the employer to the member,
28 except as expressly and specifically provided in this part,
29 shall not be special compensation unless regulations
30 promulgated by the board specifically determine that
31 value to be "special compensation."

32 (6) The board shall promulgate regulations that
33 delineate more specifically and exclusively what
34 constitutes "special compensation" as used in this section.
35 A uniform allowance, the monetary value of
36 employer-provided uniforms, holiday pay, and premium
37 pay for hours worked within the normally scheduled or
38 regular working hours that are in excess of the statutory
39 maximum workweek or work period applicable to the
40 employee under Section 201 et seq. of Title 29 of the

1 United States Code shall be included as special
2 compensation and appropriately defined in those
3 regulations.

4 (7) Special compensation does not include any of the
5 following:

6 (A) Final settlement pay.

7 (B) Payments made for additional services rendered
8 outside of normal working hours, whether paid in lump
9 sum or otherwise.

10 (C) Any other payments the board has not
11 affirmatively determined to be special compensation.

12 (d) Notwithstanding any other provision of law,
13 payrate and special compensation schedules, ordinances,
14 or similar documents shall be public records available for
15 public scrutiny.

16 (e) (1) As used in this part, “group or class of
17 employment” means a number of employees considered
18 together because they share similarities in job duties,
19 work location, collective bargaining unit, or other logical
20 work related grouping. Under no circumstances shall one
21 employee be considered a group or class.

22 (2) Increases in compensation earnable granted to any
23 employee who is not in a group or class shall be limited
24 during the final compensation period applicable to the
25 employees, as well as the two years immediately
26 preceding the final compensation period, to the average
27 increase in compensation earnable during the same
28 period reported by the employer for all employees who
29 are in the same membership classification, except as may
30 otherwise be determined pursuant to regulations
31 adopted by the board that establish reasonable standards
32 for granting exceptions.

33 (f) As used in this part, “final settlement pay” means
34 any pay or cash conversions of employee benefits that are
35 in excess of compensation earnable, that are granted or
36 awarded to a member in connection with or in
37 anticipation of a separation from employment. The board
38 shall promulgate regulations that delineate more
39 specifically what constitutes final settlement pay.

1 (g) (1) Notwithstanding subdivision (a),
2 “compensation earnable” for state members means the
3 average monthly compensation, as determined by the
4 board, upon the basis of the average time put in by
5 members in the same group or class of employment and
6 at the same rate of pay, and is composed of the payrate
7 and special compensation of the member. The
8 computation for any absence of a member shall be based
9 on the compensation earnable by him or her at the
10 beginning of the absence and that for time prior to
11 entering state service shall be based on the compensation
12 earnable by him or her in the position first held by him
13 or her in that state service.

14 (2) Notwithstanding subdivision (b), “payrate” for
15 state members means the average monthly remuneration
16 paid in cash out of funds paid by the employer to similarly
17 situated members of the same group or class of
18 employment, in payment for the member’s services or for
19 time during which the member is excused from work
20 because of holidays, sick leave, vacation, compensating
21 time off, or leave of absence. “Payrate” for state members
22 shall include:

23 (A) Any amount deducted from a member’s salary for
24 any of the following:

25 (i) Participation in a deferred compensation plan
26 established pursuant to Chapter 4 (commencing with
27 Section 19993) of Part 2.6.

28 (ii) Payment for participation in a retirement plan
29 that meets the requirements of Section 401(k) of Title 26
30 of the United States Code.

31 (iii) Payment into a money purchase pension plan and
32 trust that meets the requirements of Section 401(a) of
33 Title 26 of the United States Code.

34 (iv) Participation in a flexible benefits program.

35 (B) Any payment in cash by the member’s employer
36 to one other than an employee for the purpose of
37 purchasing an annuity contract for a member under an
38 annuity plan that meets the requirements of Section
39 403(b) of Title 26 of the United States Code.

1 (C) Employer “pick up” of member contributions
2 that meets the requirements of Section 414(h)(2) of Title
3 26 of the United States Code.

4 (D) Any disability or workers’ compensation
5 payments to safety members in accordance with Section
6 4800 of the Labor Code.

7 (E) Temporary industrial disability payments
8 pursuant to Article 4 (commencing with Section 19869)
9 of Chapter 2.5 of Part 2.6.

10 (F) Any other payments the board may determine to
11 be within “payrate.”

12 (3) Notwithstanding subdivision (c), “special
13 compensation” for state members shall mean all of the
14 following:

15 (A) The monetary value, as determined by the board,
16 of living quarters, board, lodging, fuel, laundry, and other
17 advantages of any nature furnished a member by his or
18 her employer in payment for the member’s services.

19 (B) Any compensation for performing normally
20 required duties, such as holiday pay, bonuses (for duties
21 performed on regular work shift), educational incentive
22 pay, maintenance and noncash payments, out-of-class
23 pay, marksmanship pay, hazard pay, motorcycle pay,
24 paramedic pay, emergency medical technician pay,
25 POST certificate pay, and split shift differential.

26 (C) Compensation for uniforms, except as provided in
27 Section 20632.

28 (D) Any other payments the board may determine to
29 be within “special compensation.”

30 (4) Neither “payrate” nor “special compensation” for
31 state members shall include any of the following:

32 (A) The provision by the state employer of any
33 medical or hospital service or care plan or insurance plan
34 for its employees (other than the purchase of annuity
35 contracts as described below in this subdivision), any
36 contribution by the employer to meet the premium or
37 charge for such a plan, or any payment into a private fund
38 to provide health and welfare benefits for employees.

1 (B) Any payment by the state employer of the
2 employee portion of taxes imposed by the Federal
3 Insurance Contribution Act.

4 (C) Amounts not available for payment of salaries and
5 that are applied by the employer for the purchase of
6 annuity contracts including those that meet the
7 requirements of Section 403(b) of Title 26 of the United
8 States Code.

9 (D) Any benefits paid pursuant to Article 5
10 (commencing with Section 19878) of Chapter 2.5 of Part
11 2.6.

12 (E) Employer payments that are to be credited as
13 employee contributions for benefits provided by this
14 system, or employer payments that are to be credited to
15 employee accounts in deferred compensation plans;
16 provided, that the amounts deducted from a member's
17 wages for participation in a deferred compensation plan
18 shall not be considered to be "employer payments."

19 (F) Payments for unused vacation, annual leave,
20 personal leave, sick leave, or compensating time off,
21 whether paid in lump sum or otherwise.

22 (G) Final settlement pay.

23 (H) Payments for overtime, including pay in lieu of
24 vacation or holiday.

25 (I) Compensation for additional services outside
26 regular duties, such as standby pay, callback pay, court
27 duty, allowance for automobiles, and bonuses for duties
28 performed after the member's regular work shift.

29 (J) Amounts not available for payment of salaries and
30 which are applied by the employer for any of the
31 following:

32 (i) The purchase of a retirement plan which meets the
33 requirements of Section 401(k) of Title 26 of the United
34 States Code.

35 (ii) Payment into a money purchase pension plan and
36 trust which meets the requirements of Section 401(a) of
37 Title 26 of the United States Code.

38 (K) Payments made by the employer to or on behalf
39 of its employees who have elected to be covered by a

1 flexible benefits program, where those payments reflect
2 amounts that exceed the employee's salary.

3 (L) Any other payments the board may determine are
4 not "payrate" or "special compensation."

5 (5) If the provisions of this subdivision, including the
6 board's determinations pursuant to subparagraph (F) of
7 paragraph (2) and subparagraph (D) of paragraph (3),
8 are in conflict with the provisions of a memorandum of
9 understanding reached pursuant to Section 3517.5 or
10 3560, the memorandum of understanding shall be
11 controlling without further legislative action, except that
12 if the provisions of a memorandum of understanding
13 require the expenditure of funds, those provisions shall
14 not become effective unless approved by the Legislature
15 in the annual Budget Act. No memorandum of
16 understanding reached pursuant to Section 3517.5 or 3560
17 may exclude from the definition of either "payrate" or
18 "special compensation" a member's base salary payments
19 or payments for time during which the member is
20 excused from work because of holidays, sick leave,
21 vacation, compensating time off, or leave of absence. If
22 any items of compensation earnable are included by
23 memorandum of understanding as "payrate" or "special
24 compensation" for retirement purposes for represented
25 and higher education employees pursuant to this
26 paragraph, the Department of Personnel Administration
27 or the Trustees of the California State University shall
28 obtain approval from the board for that inclusion.

29 (6) (A) Subparagraph (B) of paragraph (3) of this
30 subdivision prescribes that compensation earnable
31 includes any compensation for performing normally
32 required duties, such as holiday pay, bonuses (for duties
33 performed on regular work shift), educational incentive
34 pay, maintenance and noncash payments, out-of-class
35 pay, marksmanship pay, hazard pay, motorcycle pay,
36 paramedic pay, emergency medical technician pay,
37 POST certificate pay, and split shift differential; and
38 includes compensation for uniforms, except as provided
39 in Section 20632; and subparagraph (I) of paragraph (4)
40 excludes from compensation earnable compensation for

1 additional services outside regular duties, such as standby
2 pay, callback pay, court duty, allowance for automobile,
3 and bonuses for duties performed after regular work shift.

4 (B) Notwithstanding subparagraph (A) of this
5 paragraph, the Department of Personnel Administration
6 shall determine which payments and allowances that are
7 paid by the state employer shall be considered
8 compensation for retirement purposes for any employee
9 who either is excluded from the definition of state
10 employee in Section 3513, or is a nonelected officer or
11 employee of the executive branch of government who is
12 not a member of the civil service.

13 (C) Notwithstanding subparagraph (A) of this
14 paragraph, the Trustees of the California State University
15 shall determine which payments and allowances that are
16 paid by the trustees shall be considered compensation for
17 retirement purposes for any managerial employee, as
18 defined in Section 3562, or supervisory employee as
19 defined in Section 3580.3.

20 SEC. 6. Section 22810.5 of the Government Code is
21 amended to read:

22 22810.5. (a) Participation in a low-cost health
23 benefits plan, developed and authorized by the board
24 specifically as part of a flexible benefits program, is
25 restricted to active state employees who are (1) excluded
26 from the definition of state employee in Section 3513; (2)
27 supervisory employees, as defined in Section 3580.3; (3)
28 employees of the executive branch of government who
29 are not members of the civil service; and (4) employees
30 of the California State University System, as defined in
31 Section 3562 and supervisory employees, as defined in
32 Section 3580.3.

33 (b) If this section is in conflict with a memorandum of
34 understanding reached pursuant to Section 3517.5 or
35 Chapter 12 (commencing with Section 3560) of Division
36 4 of Title 1, the memorandum of understanding is
37 controlling without further legislative action, except that,
38 if the memorandum of understanding requires the

1 expenditure of funds, it shall not become effective unless
2 approved by the Legislature in the annual Budget Act.

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